

LAW OFFICES
PRUITT, GUSHEE & BACHTTELL

SUITE 1850 BENEFICIAL LIFE TOWER

SALT LAKE CITY, UTAH 84111

(801) 531-8446

ROBERT G. PRUITT, JR.
OLIVER W. GUSHEE, JR.
THOMAS W. BACHTTELL
A. JOHN DAVIS, III
JOHN W. ANDERSON
FREDERICK M. MACDONALD
ANGELA L. FRANKLIN
K. ALLEN FARBER

TELECOPIER (801) 531-8468
OR (801) 533-9223

OF COUNSEL
MICHAEL F. JONES
BRENT A. BOHMAN

March 17, 1992

D. Wayne Hedberg
Permitting Supervisor, Minerals
DIVISION OF OIL, GAS & MINING
Department of Natural Resources
State of Utah
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

RECEIVED

MAR 18 1992

DIVISION OF
OIL GAS & MINING

RE: Parley's Canyon Aggregate Company
Application for Conditional Use Permit on
Lone Star Industries Parley's Canyon Quarry
DOGM File D-035-003, Salt Lake County, Utah

Dear Mr. Hedberg:

Please be advised that this office represents Parley's Canyon Aggregate Company, the applicant for a Conditional Use Permit pending before the Salt Lake County Commission to conduct a sand, gravel and rock aggregate operation at the above referenced location. I am writing on behalf of Parley's Aggregate in response to your letter of March 2, 1992, to Warren Reynolds at Salt Lake County Public Works Department, Development Services Division.

We are writing to express our concern with and strong exception to your conclusion that Parley's Aggregate (or any other operator) conducting operations at this site would need to file a Notice of Intent to conduct mining under the Utah Mine Reclamation Act ("the Act"). Your conclusion was apparently based solely upon prior use. That is, because the prior owner operated this pit as a limestone quarry, that use necessarily and conclusively establishes all future uses as "mining operations" under the Act.

D. Wayne Hedberg

March 17, 1992

Page 2

To the contrary, we respectfully submit that Parley's Aggregate's intended and committed use of the materials present at the site is not only relevant but conclusive as to the applicability of the Act and the regulations thereunder. The Act, at Section 40-8-4 (8)b states in relevant part

"Mining Operation" does not include: The extraction of sand, gravel and rock aggregate....

Accordingly, as only "Mining Operations" are subject to the Notice of Intent requirements under the Act, so long as Parley's Aggregate only extracts "sand, gravel and rock aggregate," under the Act, it is exempt from the NOI requirements.

Rock aggregate is not a defined term under the Act, but, rather is defined in the industry by the uses to which it is put. Generally, those uses include rock for concrete, fill, highway subbase and riprap. The material at the site consists primarily of low quality, shaly limestone, shaly talus and unconsolidated gravels and sands. Although the site was actively mined for limestone in the past by prior owners, the quarry was shut down in the early 80's because of poor quality of the limestone.

Although Parley's Aggregate is continuing to run tests on the material and research potential markets, currently the material is only marketable as fill or riprap rock. Further, Parley's Aggregate has been informed by Clement Starnes, the contractor for the Little Dell Dam Project, that the rock aggregate present at the site is suitable for use as riprap at the dam. As you may know, this project is almost one year behind schedule and several million dollars over budget. In addition, Clement Starnes has been unable to locate other suitable riprap material closer than sites 20 to 30 miles away. Accordingly, use of the site materials would result in tremendous savings in both time and transportation costs at this project---costs which would otherwise be borne by taxpayers and Salt Lake County residents.

In sum, although we can appreciate the Division's position, we believe that the law is clear and that so long as the product taken from this site meets the industry custom and practice as rock aggregate and is put to the same use or uses as rock aggregate, this proposed project should be recognized for what it is, a sand, gravel and rock aggregate operation and not a "mining operation" under the Act.

D. Wayne Hedberg
March 17, 1992
Page 3

Thank you for your consideration. If you wish to discuss this matter further, please advise.

Very truly yours,



A. John Davis

AJD:jw

cc: Parley's Canyon Aggregate Company
John Young, Planner, Development Services Division